

Complaint

Mr M has complained about loans Commsave Credit Union Limited (trading as “CCUL”) provided to him. He says the loans were unaffordable and therefore irresponsibly provided to him.

Background

CCUL has provided Mr M with a total of five loans since 2018. Mr M may have been provided with other loans before this but despite having been given the opportunity to do so, he’s not complained about these loans. So all reference to loans (and the corresponding numbers) in this decision are made with reference to agreements entered into from 2018 onwards.

In February 2019, CCUL provided Mr M with a first loan (in the period being looked at) for £500. This was an extension to Mr M’s existing revolving credit facility and the loan had an APR of 19.6%. The expectation was that if the funds were immediately drawn down in full the balance would be repaid in weekly instalments of £40.

CCUL then provided Mr M with a second loan for £650 in May 2019. This loan had an APR of 26.8% and a term of 61 weeks. This meant that the total amount to be repaid of £824.55, including interest, fees and charges of £174.55, was due to be repaid in 61 weekly instalments of £41.87.

In January 2020, CCUL provided Mr M with a third loan for £5,000.00. This loan had an APR of 27.1% and a term of 156 weeks. This meant that the total amount to be repaid of £7,015.76, including interest, fees and charges of £2,015.76, was due to be repaid in 156 weekly instalments of £45.04.

Mr M was provided with a fourth loan for £14,265.92 in September 2021. This loan had an APR of 13.9% and a term of 362 weeks. This meant that the total amount to be repaid of £21,659.33, including interest, fees and charges of £7,393.41, was due to be repaid in 362 weekly instalments of £59.95.

Mr M was provided with a fifth and final loan for £500 in October 2022. This loan had an APR of 27.0% and a term of 52 weeks. This meant that the total amount to be repaid of £563.29, including interest, fees and charges of £63.29, was due to be repaid in 52 weekly instalments of £10.84.

One of our investigators reviewed Mr M’s complaint and he eventually concluded that CCUL didn’t do anything wrong when providing Mr M with loans 1 and 2 but that it ought to have seen that it shouldn’t have approved the application for loans 3, 4 and 5.

Mr M accepted the investigator’s assessment. CCUL accepted the assessment in relation to loans 1, 2, 3 and 5 but disagreed with the findings in relation to loan 4. And it asked for an ombudsman to look at the complaint about this loan.

As the parties are in agreement with the outcome reached in relation to loans 1, 2, 3 and 5, this decision is only considering whether CCUL acted fairly and reasonably towards Mr M when providing loan 4.

My provisional decision of 23 October 2023

I issued a provisional decision – on 23 October 2023 - setting out why I was minded to conclude that what CCUL had already agreed to do to put things right for Mr M was fair and reasonable in all the circumstances of his complaint. I won't copy that decision in full, but I will instead provide a summary of my findings.

I started by setting out that we've explained how we handle complaints about unaffordable and irresponsible lending on our website. And that I had used this approach to help me decide Mr M's complaint.

I then went on to explain that CCUL needed to ensure that it acted fairly and reasonably towards Mr M. As part of this, it needed to take reasonable steps to ensure that it didn't provide unaffordable credit. In practice, what this meant was that CCUL needed to carry out proportionate checks to be able to understand whether Mr M could afford to make his repayments to loan 4 before providing this loan.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to provide loans to a customer irresponsibly.

CCUL said that it approved Mr M's application for loan 4 after he provided details of his monthly income and some information on his expenditure. It said it cross-checked this against information on a credit search it carried out as well as payslips and copies of bank statements that it obtained from Mr M. In CCUL's view all of the information it gathered showed that Mr M could comfortably afford to make the weekly repayments he was committing to. On the other hand, Mr M said he couldn't afford this loan.

I carefully thought about what Mr M and CCUL have said.

It was clear to me that CCUL did obtain a reasonable amount of information before it decided to proceed with Mr M's application. And this information did appear to suggest that the loan repayments were affordable for Mr M. Indeed our investigator appears to have accepted this but she in any event thought that as CCUL had agreed that it didn't act fairly and reasonably when it provided loan 3, it followed that she had to reach the same conclusion on loan 4.

However, I didn't agree with this analysis or conclusion. I explained that this was because it was clear that CCUL had obtained a significant amount of information before it provided loan 4, which it didn't do when providing loans 3 and 5. And given the amount of information that CCUL obtained from Mr M before it provided loan 4, I didn't think it is reasonable to conclude that the checks it carried out before providing this loan weren't fair and reasonable.

Furthermore, the information from the time suggested that Mr M was going to use some of the funds from this loan to settle other debts. I could see Mr M provided CCUL with an undertaking that he would settle outstanding balances on number of accounts.

I didn't know whether Mr M did use the funds in the way that he'd undertaken to. But CCUL could only make a reasonable decision based on the information it had available at the time. Mr M had committed to consolidating and CCUL was reasonably entitled to believe that Mr M would follow through with this commitment.

I also thought that it was worth noting that the monthly payments appeared to have been affordable (based on the income and expenditure information and what was on Mr M's bank statements) whether or not Mr M's existing balances were cleared. So I didn't think that CCUL had to contact Mr M's existing creditors and clear the balances on Mr M's accounts.

Furthermore, as this was a first consolidation loan CCUL was providing to Mr M (Mr M had previous loans but loan 1 was a revolving credit facility, loan 2 was for a holiday and loan 3 was for home improvements), at this stage at least, there wasn't a history of Mr M taking out consolidation loans and then returning for further loans having failed to consolidate debts elsewhere in the way he committed to. So given the particular circumstances here, I was satisfied that CCUL was reasonably entitled to believe that Mr M would be left in a better position after being provided with this loan.

I accepted that Mr M's full circumstances may not have been reflected in the information CCUL gathered or in the information he'd since provided. But it was only fair and reasonable for me to uphold a complaint in circumstances where a firm did something wrong.

Given the circumstances here, and the lack of obvious inconsistencies, I didn't think that CCUL did anything wrong when providing this loan to Mr M - it carried out fair and reasonable checks and reasonably relied on what it found out which suggested the repayments were affordable.

So overall and having considered everything, I wasn't persuaded that CCUL acted unfairly or unreasonably when providing loan 4 to Mr M. And I therefore set out that it was my intention to conclude that what it has already agreed to do to put things right in relation to compensating Mr M for loans 3 and 5 was fair and reasonable in all the circumstances of this case.

I did appreciate this was likely to be disappointing for Mr M – particularly as the investigator suggested that the complaint about this loan should also be upheld. But I hoped he'd understand the reasons for my likely decision and that he'd at least feel his concerns had been listened to.

Responses to my provisional decision

CCUL confirmed that it accepted my provisional decision and didn't provide anything further to me to consider.

Mr M didn't respond to my provisional decision or provide anything further for me to consider.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In my provisional decision of 23 October 2023, I set out in some detail why I was minded to conclude that what CCUL had already agreed to do to put things right for Mr M was fair and reasonable in all the circumstances of his complaint. As the parties haven't provided me with anything further to consider, I see no reason to alter my conclusions.

So overall and having considered everything, I remain satisfied that what CCUL had already agreed to do to put things right for Mr M is fair and reasonable in all the circumstances of his complaint.

Fair compensation – what CCUL needs to do to put things right for Mr M

Having thought about everything, I'm satisfied that it would be fair and reasonable for CCUL to put things right for Mr M by:

- refunding all interest fees, and charges Mr M paid as a result of loans 3 and 5 (as CCUL has already agreed to do):
- adding interest at 8% per year simple on any refunded payments from the date they were made by Mr M to the date of settlement†
- removing any adverse information it may have recorded about loans 3 and 5 from Mr M's credit file;

† HM Revenue & Customs requires CCUL to take off tax from this interest. CCUL must give Mr M a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained above and in my provisional decision of 23 October 2023, I'm satisfied that what Commsave Credit Union Limited has already agreed to do to put things right is fair and reasonable in the circumstances of Mr M's complaint. And it doesn't need to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 December 2023.

Jeshen Narayanan
Ombudsman